

## HOUSE BILL NO. 493

INTRODUCED BY N. FRITZ

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSURE OF MONTANA WINERIES; AUTHORIZING SMALL MONTANA WINERIES TO SELL TO LICENSED RETAILERS; ALLOWING SHIPMENT OF SMALL WINERIES' WINE BY COMMON CARRIER TO LICENSED RETAILERS AND WINE DISTRIBUTORS; REQUIRING WINERIES TO MAINTAIN RECORDS; GOVERNING DOCK SALES BY DOMESTIC WINERIES TO A HOLDER OF CERTAIN RETAIL ALCOHOLIC BEVERAGE LICENSES; AMENDING SECTIONS 16-3-411, 16-3-418, 16-4-107, 16-4-406, 16-4-407, AND 16-4-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 16-3-411, MCA, is amended to read:

**"16-3-411. Domestic winery.** (1) A winery located in Montana and ~~registered~~ licensed pursuant to 16-4-107 may:

~~(1)(a)~~ (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

~~(2)(b)~~ (b) sell wine it produces at wholesale to wine distributors;

~~(3)(c)~~ (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;

~~(4)(d)~~ (d) provide, without charge, wine it produces for consumption at the winery;

~~(5)(e)~~ (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces; ~~or~~

~~(6)(f)~~ (f) obtain a special event permit under 16-4-301; or

(g) perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury.

(2) (a) A winery that is located in Montana and licensed pursuant to 16-4-107 and that has an annual production of 25,000 gallons or less of wine may sell wine to retail licensees that are licensed to sell wine under this code. A winery making sales to retail licensees under the provisions of this subsection

(2) is considered a table wine distributor for the purposes of collecting taxes on table wine, as provided

1 in 16-1-411.

2 (b) The winery may use a common carrier for delivery of the wine to licensed wine distributors  
3 and retailers. A shipment by common carrier is subject to the provisions of 16-3-106 and must be:

4 (i) in boxes that are marked with the words: "Wine Shipment From Montana Licensee to Montana  
5 Licensee";

6 (ii) made to the premises of a Montana-licensed wine distributor or retailer licensed by the state  
7 and who is in good standing; and

8 (iii) signed for by the wine distributor or retailer or its employee or agent.

9 (c) In addition to any records required to be maintained under 16-4-107, a winery that distributes  
10 wine within the state under this subsection (2) shall maintain records of all sales and shipments. The  
11 winery shall furnish monthly and other reports concerning quantities and prices of table wine that it ships  
12 in the state, names and addresses of consignees, and other information that the department may  
13 determine to be necessary to ensure that distribution of table wines within this state conforms to the  
14 requirements of this code."

15

16 **Section 2.** Section 16-3-418, MCA, is amended to read:

17 **"16-3-418. Dual appointments -- equal support -- alternate supplier -- dock sales.** (1) (a) A supplier  
18 may appoint one or more table wine distributors to distribute its table wines in a specified territory. If the  
19 supplier appoints two or more table wine distributors to sell its table wines in the same or overlapping  
20 territories, the supplier shall offer the same prices, delivery, terms, and promotional support to each table  
21 wine distributor.

22 (b) A supplier may not appoint more than one table wine distributor to distribute its hard cider in  
23 a specified territory.

24 (c) For the purposes of this subsection (1), "table wine" has the meaning assigned in 16-1-106,  
25 but does not include hard cider.

26 (2) (a) The holder of an all-beverages license under chapter 4, part 2, may, upon presentation of  
27 the license or a photocopy of the license, personally obtain from any distributor's warehouse a quantity  
28 of table wine that the licensee may agree to buy and that the distributor may agree to sell.

29 (b) The holder of a license that permits on-premises consumption of alcoholic beverages under  
30 16-4-401(2) may, upon presentation of the license or a photocopy of the license, personally or through

1 an employee, obtain from any winery described in 16-3-411(2)(a) a quantity of table wine that the licensee  
2 may agree to buy and that the winery may agree to sell."

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4 **Section 3.** Section 16-4-107, MCA, is amended to read:

5 **"16-4-107. Winery Domestic winery license -- winery and importer registration.** (1) (a) Wine, other  
6 than for personal consumption in conformity with federal exemptions from holding a basic permit as a  
7 bonded winery, may be manufactured within the state only by a licensed domestic winery. An application  
8 for a domestic winery licensed must be accompanied by a fee of \$400, which constitutes the first annual  
9 license fee, and a licensee shall in each succeeding year pay an annual fee as provided in 16-4-501.  
10 Domestic winery licensees shall hold the appropriate basic permit required by the United States department  
11 of the treasury and be qualified for a license in accordance with the provisions of 16-4-401(4).

12 (b) A domestic winery licensed to do business in the state shall, each quarter and in the manner  
13 and form prescribed by the department, report to the department the amount of wine manufactured or  
14 imported by the winery in the previous quarter and the winery's inventory. The department may at any  
15 time examine a winery's books.

16 (2) ~~Any~~ A winery that is not located in the state or an importer of table wines ~~which~~ that holds  
17 the appropriate license from the United States of America and ~~which~~ that desires to distribute its table  
18 wines within this state shall apply to the department of revenue for registration on forms to be prepared  
19 and furnished by the department. Each winery will furnish the department with a copy of each container  
20 label currently used by the winery on its products imported into Montana. The department shall require  
21 ~~such~~ the winery or importer to agree to furnish monthly and other reports concerning quantities and prices  
22 of table wine it ships into the state, names and addresses of consignees, and ~~such~~ any other information  
23 as ~~that~~ the department may determine to be necessary to ~~assure~~ ensure that importation and distribution  
24 of table wines within this state conform to the requirements of this ~~title~~ code. ~~No~~ A winery or importer  
25 of table wines ~~shall~~ may not ship table wines into this state until ~~such~~ the registration is granted by the  
26 department, ~~and such~~. The registration may be ~~cancelled~~ canceled or suspended by the department upon  
27 a finding after notice and hearing that the registrant has not complied with the terms of its registration."

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29 **Section 4.** Section 16-4-406, MCA, is amended to read:

30 **"16-4-406. Renewal -- suspension or revocation -- penalty.** (1) The department may upon its own

1 motion and shall upon a written, verified complaint of a person request that the department of justice  
2 investigate the action and operation of a brewer, winery, wholesaler, or retailer licensed under this code.

3 (2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if  
4 the department, after receiving the results of the department of justice's investigation, has reasonable  
5 cause to believe that a licensee has violated a provision of this code or a rule of the department, it may,  
6 in its discretion and in addition to the other penalties prescribed:

7 (a) reprimand a licensee;

8 (b) proceed to revoke the license of the licensee;

9 (c) suspend the license for a period of not more than 3 months;

10 (d) refuse to grant a renewal of the license after its expiration; or

11 (e) impose a civil penalty not to exceed \$1,500.

12 (3) If the department, after receiving the results of the department of justice's investigation, has  
13 reasonable cause to believe that a licensee does not meet the eligibility criteria established by this code  
14 or rules of the department or that the premises are not suitable pursuant to the provisions of this code or  
15 rules of the department, it may, in its discretion, proceed to revoke the license of the licensee or it may  
16 refuse to grant renewal of the license subject to the opportunity of the licensee to contest the action at  
17 a hearing under the Montana Administrative Procedure Act."

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19 **Section 5.** Section 16-4-407, MCA, is amended to read:

20 **"16-4-407. Suspension or revocation of licenses.** Each July 1 or, when applicable, on the  
21 licensee's anniversary date, the department shall issue licenses to brewers, wineries, beer importers,  
22 wholesalers, or retailers or for the retail sale of alcoholic beverages on an annual basis ~~and with~~ upon  
23 payment of the fees prescribed by law, ~~and the~~ The licenses are subject to suspension or revocation under  
24 16-4-406 after midnight of June 30 of the succeeding year or 1 year after the anniversary if the annual  
25 renewal fees required by 16-4-501 are not paid. The department shall notify each applicant for an original  
26 license or renewal that it is the applicant's responsibility to determine if applicable provisions of federal  
27 law require the applicant to obtain a permit from a federal agency."

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29 **Section 6.** Section 16-4-501, MCA, is amended to read:

30 **"16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table

1 wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee  
2 as follows:

3 (a) each brewer and each beer importer, wherever located, whose product is sold or offered for  
4 sale within the state, \$500; for each storage depot, \$400;

5 (b) each beer wholesaler, \$400; each domestic winery producing more than 25,000 gallons of  
6 wine, \$400; each domestic winery producing 25,000 gallons or less of wine, \$200; each table wine  
7 distributor, \$400; each subwarehouse, \$400;

8 (c) each beer retailer, \$200;

9 (d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer  
10 license; for a license to sell table wine at retail for off-premises consumption only, either alone or in  
11 conjunction with beer, \$200;

12 (e) any unit of a nationally chartered veterans' organization, \$50.

13 (2) The permit fee under 16-4-301(1) is computed at the rate of \$10 a day for each day that beer  
14 and table wine are sold at those events lasting 2 or more days, but the fee may not exceed \$300 for a  
15 series of scheduled sporting events.

16 (3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for  
17 the sale of all alcoholic beverages.

18 (4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license  
19 fee in the sum of \$300.

20 (5) The annual license fee for a license to sell wine on the premises, when issued as an  
21 amendment to a beer-only license pursuant to 16-4-105, is \$200.

22 (6) The annual renewal fee for resort retail all-beverages licenses within a given resort area is  
23 \$2,000 for each license.

24 (7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

25 (a) except as provided in this section, for each license outside of incorporated cities and  
26 incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000,  
27 \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

28 (b) except as provided in this section, for each license in incorporated cities with a population of  
29 more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the  
30 nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a

1 nationally chartered veterans' organization and \$500 for all other licensees;

2 (c) except as provided in this section, for each license in incorporated cities with a population of  
3 more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from  
4 the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit  
5 of a nationally chartered veterans' organization and \$650 for all other licensees;

6 (d) for each license in incorporated cities with a population of 10,000 or more or within a distance  
7 of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the  
8 nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800  
9 for all other licensees;

10 (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated  
11 towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest  
12 boundary of the city or town; and where the premises of the applicant to be licensed are situated within  
13 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different  
14 populations, the license fee chargeable by the larger incorporated city or incorporated town applies and  
15 must be paid by the applicant. When the premises of the applicant to be licensed are situated within an  
16 incorporated town or incorporated city and any portion of the incorporated town or incorporated city is  
17 without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city  
18 applies and must be paid by the applicant.

19 (f) an applicant for the issuance of an original license to be located in areas described in  
20 subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that  
21 guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a  
22 one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000 may  
23 not apply to any transfer or renewal of a license issued prior to July 1, 1974. All licenses, however, are  
24 subject to the specified annual renewal fees.

25 (8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

26 (9) The annual fee for a special beer and table wine license for a nonprofit arts organization under  
27 16-4-303 is \$250.

28 (10) The license fees provided in this section are exclusive of and in addition to other license fees  
29 chargeable in Montana for the sale of alcoholic beverages.

30 (11) In addition to other license fees, the department of revenue may require a licensee to pay a

1 late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the  
2 licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1  
3 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on  
4 September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

5 (12) All license and permit fees collected under this section must be deposited as provided in  
6 16-2-108."

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8 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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